

7.03 EMPLOYEE BACKGROUND CHECK

Completed Background checks and drug/alcohol tests are required for all ~~contractual-recommended~~ personnel ~~recommendations prior to following~~ school board approval.

Each offer of employment is subject to the provisions of SDCL 13-10-12, et seq., relating to background investigations. It is the policy of the Board to only employ individuals who do not have a “disqualifying record”. No person may be employed by the District, either directly or by contract if the person has been convicted of a crime of violence (SDCL 22-1-2(9)), a sex offense (SDCL 22-24B-1) or trafficking in narcotics. Conviction of any crime of moral turpitude as defined by SDCL 22-1-2(25) may constitute a disqualifying record as determined by the Board on a case-by-case basis.

Any person employed by the Oglala Lakota County School District on July 1, 2000, who remains continuously employed by the same South Dakota school district for consecutive school years is not required to submit to a criminal background check as provided in 13-10-12.

An employee is any person the District lists on its payroll and makes payroll deductions pursuant to state or federal law. The provisions of the policy, identifying employees with disqualifying convictions as defined in South Dakota law, apply to ALL employees regardless of hire date and can result in termination of employment.

Employees are to report to the Superintendent and Human Resource Director any arrest for or conviction or charge of any tribal, state, or federal law or regulation. Failure to do so constitutes insubordination and breach of contract and may result in the imposition of disciplinary action up to and including termination.

To the furthest extent possible, the District shall require ~~in its contracts~~ that all third-party providers of goods and services ~~with employees~~ who have contact with students of the District, conduct background checks ~~and drug and alcohol tests~~ meeting the requirements of this policy and ~~to~~ certify compliance in writing to the District.

1. Procedure for Fingerprinting

- a. The office of Human Resources has established a **mandatory** process for collecting and submitting fingerprints to the South Dakota Division of Criminal Investigation and the Federal Bureau of Investigation. This procedure is mandatory for all ~~prospective~~ employees ~~of the District,~~ **volunteers, and third-party providers.**
- b. The District will collect and submit all fingerprint records before the ~~prospective~~ new employee, **volunteer, or third-party provider** enters into service.

- c. The District will pay the costs and fees incurred in this process for employees.
- d. Volunteers and third-party providers will pay the costs and fees incurred in this process.
- e. This policy shall NOT apply to persons hired to officiate, judge, adjudicate, or referee a public event sponsored by a school district.
- f. The criminal background investigation with respect to a student teacher completing requirements for teacher certification shall be conducted by the District, and may be provided to any other school in which the student engages in student teaching. The District conducting the criminal background investigation of a student teacher may rely upon the results of that investigation for employment of that person as an employee of the District.
- g. This policy applies to all other employment agreements.

2. Conditional/Emergency Offer of Employment

- a. Any person whose employment is subject to the requirements of this section may ~~enter into service on a temporary basis~~ begin employment pending receipt of results of the criminal background investigation and drug and alcohol test. The district, without liability, may withdraw its offer of employment or terminate the temporary employment without notice if the investigation reveals a disqualifying record.
- b. Any criminal conviction not disclosed by an applicant may be treated as a disqualifying record.
- c. The District reserves the right to consider any criminal conviction in making a hiring decision. However, the District will not hire individuals who have been convicted of a crime of violence, including any attempt to commit or conspire to commit a crime of violence, (i.e., murder, manslaughter, rape, aggravated assault, robbery, burglary in the first degree, arson, kidnapping, and felony sexual assault, as defined in SDCL 22-22-7, felony child abuse as defined in SDCL 26-10-1 or any other felony the commission in which the perpetrator used force, was armed with a dangerous weapon or used any explosive or destructive devices), or was convicted of a crime of moral turpitude which is defined as any act done contrary to justice, honesty, principal or good morals, as well as an act of baseness, vileness or depravity in private and social duties which a person owes to his fellow man or to society in general.
- ~~d. Any individual who has been denied employment due to a conviction may within five (5) work days appeal said denial to the Superintendent whose decision is final.~~

First Read: 2-27-2024

Second Read:

Approved: